

2013 MAY 23 AM 10:54
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DON P. GOOCH,
GERARD F. SCOTT,

Defendants.

) INDICTMENT
)
)
)
)
)
)
)
)
)
)

CASE NO.:

1:13CR260

Title 18, United States Code,
Sections 286 and 287

JUDGE NUGENT

General Allegations

The Grand Jury charges:

At all times relevant to this Indictment or other times specified:

1. DON P. GOOCH ("GOOCH"), a defendant herein, resided in East Cleveland, Ohio. GOOCH was a salaried employee with an Ohio state government agency until late in the year 2010.

2. GERARD F. SCOTT ("SCOTT"), a defendant herein, resided in the Cleveland, Ohio area. SCOTT had no permanent residence known to the Grand Jury, often residing at extended stay hotels. SCOTT had no legitimate sources of income known to the Grand Jury.

SCOTT had a personal relationship with a woman referred to herein as JJJ, who he sometimes referred to as his wife.

3. GOOCH used at least one UPS Store mailbox as an address for a business name he used. SCOTT used at least two UPS Store mailboxes as addresses for business names he used.

4. A Nonmortgage Widely Held Fixed Investment Trust ("NMWHFIT") was a type of investment trust that was a pass-through entity for federal income tax purposes. As such, any income or losses were reportable by the trust's investors and the trust was required to issue an appropriate 1099 reporting form to each investor, with a copy to the Internal Revenue Service ("IRS"), reporting the investor's share of income, losses, and other items.

5. IRS Form 1099-OID was the form for a financial institution to use to report original issue discount income to investors. Original issue discount ("OID") was the difference between the issue price and maturity price of a bond or similar debt investment and was reportable as income to the debt holder each year over the life of the investment. IRS Form 1099-INT was the form for a payer of interest to use to report interest paid to depositors or investors.

COUNT 1

The Grand Jury further charges:

6. The allegations in paragraphs 1 through 5 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

7. From in or around mid- to late-2010, to in or around mid-April 2011, the exact dates unknown to the Grand Jury, in the Northern District of Ohio, Eastern Division, and elsewhere, the defendants, DON P. GOOCH and GERARD F. SCOTT, and others known and unknown to the Grand Jury, knowingly and intentionally agreed, combined, and conspired to

defraud the United States by obtaining and aiding to obtain the payment and allowance of false, fictitious, and fraudulent claims by submitting false claims for income tax refund with the United States Department of Treasury through the IRS.

MANNER AND MEANS OF CARRYING OUT THE CONSPIRACY

8. The manner and means by which the conspiracy was carried out, in the Northern District of Ohio, Eastern Division, and elsewhere, included but were not limited to the following:

9. The conspiracy involved a scheme in which SCOTT established a purported NMWHFIT – the Gerard Frank Scott NMWHFIT (“Scott NMWHFIT”) – as a tax entity through which he prepared and filed false Forms 1099 for the year 2010 to use in making false claims for tax refunds. The named recipients on the false Forms 1099 included GOOCH, JJJ, a purported trust created by GOOCH in the name of Nhondi Eden Holding (“Nhondi Eden”), and a purported trust created by SCOTT in the name of Private Equity Investment Trust (“Private Equity”). The false Forms 1099 reported fictitious amounts of income tax purportedly withheld by the Scott NMWHFIT on behalf of the Form 1099 recipients totaling approximately \$17,000,000, when, in fact, no such withholding was paid to the IRS. The conspirators prepared and caused to be prepared the following false income tax returns for the year 2010, claiming false refunds totaling approximately \$8,033,930 based on the fictitious withheld taxes.

Claimant	Income Tax Return for 2010	Refund claimed
GOOCH	Amended U.S. Individual Income Tax Returns, Form 1040X	\$249,430
JJJ	U.S. Individual Income Tax Return, Form 1040	\$267,302
Nhondi Eden	U.S. Income Tax Return for Estates and Trusts, Form 1041	\$3,758,599
Private Equity	U.S. Income Tax Return for Estates and Trusts, Form 1041	\$3,758,599

The returns were filed with the IRS, which issued some of the requested refunds. The conspirators shared portions of the refund proceeds and attempted to use the refund proceeds to make quick purchases of assets in a manner designed to hinder IRS efforts to discover and retrieve the funds.

10. SCOTT and GOOCH initially intended and attempted to use false Forms 1099-OID issued in the name of the Scott NMWHFIT, reporting purported amounts of fictitious withholding, supposedly based on original discount income earned by the Scott NMWHFIT. After having the forms prepared but not succeeding in having them submitted to the IRS, the conspirators switched to using false Forms 1099-INT in the name of the Scott NMWHFIT, reporting the same amounts of fictitious withholding on behalf of the same recipients supposedly based on interest income earned by the Scott NMWHFIT.

11. SCOTT and GOOCH sought to use professional tax preparers to prepare and file the false Forms 1099 and their false personal and/or business income tax returns in order to give an appearance of legitimacy to the documents. They first went to an experienced certified public accountant ("CPA"), who prepared the above-described Forms 1099-OID from false information they provided to him (along with a Form 1099-OID for another purported entity). After the CPA refused to file the Forms 1099-OID and to prepare and file tax returns based on those forms, however, SCOTT and GOOCH then went to another tax preparer who had no prior experience with trust tax returns. They paid the second preparer to prepare GOOCH's false 2010 Form 1040X and the purported trusts' false 2010 Forms 1041, using the false Forms 1099-INT that they created and provided to him.

12. The sets of false Forms 1099-OID and false Forms 1099-INT described above reported the same amounts of income and withholding, as follows:

Named Form 1099 Recipient	Reported OID and Interest	Reported Withholding
Nhondi Eden	\$12,121,213	\$8,000,000
Private Equity	\$12,121,213	\$8,000,000
GOOCH	\$757,580	\$500,000
JJJ	\$757,580	\$500,000

None of the reported amounts of withholding, however, were actually paid to the IRS.

13. In preparation for and in connection with the scheme, the conspirators applied to the IRS for Employer Identification Numbers (EINs) for the entities used in the scheme.

- a. In or around March 2010, SCOTT obtained an EIN for Private Equity.
- b. In or around August 2010, GOOCH obtained an EIN for Nhondi Eden.
- c. In or around January 2011, SCOTT obtained an EIN for Gerard Frank Scott NMWHFIT.

14. On or about February 24, 2011, JJJ opened a personal checking account at Woodforest National Bank, in Bedford, Ohio, with JJJ as sole signatory ("the JJJ Account").

15. On or about February 26, 2011, the false U.S. Individual Income Tax Return, Form 1040, in the name of JJJ was electronically transmitted to the IRS, falsely claiming a refund of \$267,300. The return was transmitted through a wireless connection at a hotel in Beachwood, Ohio. The return requested that the refund be directly deposited into the JJJ Account.

16. On or about March 2, 2011, the five false Forms 1099-INT were electronically submitted to the IRS through an account SCOTT maintained with a web-based tax filing service. The forms were transmitted through the same Beachwood hotel wireless connection as used to file JJJ's return.

17. On or about March 4, 2011, SCOTT and GOOCH met with the second income tax preparer to arrange for the preparation and electronic filing of the 2010 Forms 1041 in the names of Private Equity and Nhondi Eden and to arrange for the preparation of GOOCH's 2010 Form 1040X. SCOTT and GOOCH provided the preparer the false Forms 1099-INT to use in preparing the returns.

- a. The preparer prepared and electronically transmitted the requested Form 1041 for Nhondi Eden, which contained a false refund claim of \$3,758,599.

b. The preparer mistakenly prepared a 2010 Form 1041 for Gerard Frank Scott NMWHFIT, instead of the requested Form 1041 for Private Equity, also falsely claiming a refund of \$3,758,599, which he also electronically transmitted to the IRS.

c. The preparer prepared the requested 2010 Form 1040X, for GOOCH, which claimed a false refund of \$249,430. GOOCH signed the return approximately the next day and then filed it by mail with the IRS.

18. On or about March 23, 2011, the U.S. Treasury issued the following tax refund checks to Nhondi Eden and Private Equity as claimed in their 2010 false trust income tax returns.

- a. U.S. Treasury check #*6687 payable to Nhondi Eden in the amount of \$3,758,599 was mailed to GOOCH at his residence in East Cleveland.
- b. U.S. Treasury check #*6690 payable to the Scott NMWHFIT in the amount of \$3,758,599 was mailed to SCOTT's post office box in University Heights.

19. On or about March 30, 2011, SCOTT took U.S. Treasury check #*6690 to the second tax preparer and arranged for him to prepare a new 2010 Form 1041, in the name of Private Equity, requesting the same amount of false refund based on the same purported income and withholding as in the false Scott NMWHFIT return. SCOTT signed that Form 1041 and mailed it to the IRS for filing, along with U.S. Treasury check #*6690.

20. On or about March 31, 2011, the U.S. Treasury issued a tax refund of \$267,302 to JJJ, as claimed in her false 2010 income tax return. The refund was paid by a direct deposit of \$261,325.35 into the JJJ Account, with the remaining \$5,976.65 applied to money JJJ owed to the U.S. government. On or about the same day, JJJ purchased a number of cashier's checks with some of the deposited funds, including a check for \$10,000 payable to GOOCH.

21. On or about April 6, 2011, GOOCH and SCOTT went together to a branch of Huntington National Bank ("HNB") at which time GOOCH, with SCOTT's participation,

opened a checking account in the name of Nhondi Eden, with GOOCH as the sole signatory ("the Nhondi Eden Account"). GOOCH made an initial deposit of \$1,000 cash and then, during the same visit to the bank, deposited U.S. Treasury check #*6687 for a total first day deposit of \$3,759,599.

22. On or about April 8, 2011, SCOTT opened a checking account in the name of PEIT at HNB ("the Private Equity Account"), with an initial deposit of \$30,000. The sole signatory on the account was SCOTT as "Trustee." The \$30,000 deposit was made with a Woodforest National Bank cashier's check that JJJ purchased with funds withdrawn from the JJJ Account, representing a portion of her tax refund proceeds.

23. During mid-April 2011, one or more conspirators made or attempted to make purchases with the proceeds of the fraudulently obtained refunds, including the following:

a. On or about April 14, 2011, SCOTT and GOOCH transferred \$2,507,599 from the Nhondi Eden Account to the Private Equity Account.

b. SCOTT and JJJ jointly purchased coins from a company specializing in sales of gold and silver coins for a combined cost of approximately \$100,000 by wire transfers from the Private Equity Account and the JJJ Account.

c. SCOTT, at times accompanied by GOOCH and JJJ, purchased a 2011 Range Rover automobile in the nominee name of the Light of Peace Society for approximately \$93,000, using three Woodforest National Bank cashier's checks for \$30,000 each purchased by JJJ with funds from the JJJ Account.

d. SCOTT attempted to purchase a 2011 Porsche automobile in the nominee name of the Light of Peace Society for approximately \$164,000, offering as part payment a

\$156,000 HNB cashier's check purchased by SCOTT with funds from the Private Equity Account.

e. SCOTT attempted to purchase a residential home in Aurora, Ohio, in the nominee name of the Light of Peace Society for approximately \$487,000, using a \$500,000 HNB cashier's check he purchased with funds from the Private Equity Account.

COUNT 2

The Grand Jury further charges: .

24. The allegations in paragraph 2 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

25. On or about February 26, 2011, in the Northern District of Ohio, Eastern Division, the defendant, GERARD F. SCOTT, made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$267,300, which the defendant then and there knew to be false, fictitious, and fraudulent. The defendant made the claim by preparing and causing to be prepared, and presenting and causing to be presented to said agency, a U.S. Income Tax Return, Form 1040, in the name of JJJ for the year 2010 which requested a refund to which the defendant knew JJJ was not entitled.

In violation of Title 18, United States Code, Section 287.

COUNT 3

The Grand Jury further charges:

26. The allegations in paragraph 1 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

27. On or about March 4, 2011, in the Northern District of Ohio, Eastern Division, the defendant, DON P. GOOCH, made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$3,758,599, which the defendant then and there knew to be false, fictitious, and fraudulent. The defendant made the claim by preparing and causing to be prepared, and presenting and causing to be presented to said agency, a U.S. Income Tax Return for Estates and Trusts, Form 1041, in the name of Nhondi Eden Holdings for the year 2010 which requested a refund to which the defendant knew Nhondi Eden Holdings was not entitled.

In violation of Title 18, United States Code, Section 287.

COUNT 4

The Grand Jury further charges:

28. The allegations in paragraph 1 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

29. On or about March 11, 2011, in the Northern District of Ohio, Eastern Division, the defendant, DON P. GOOCH, made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$249,430, which the defendant then and there knew to be false, fictitious, and fraudulent. The defendant made the claim by preparing and causing to be prepared, and presenting and causing to be presented to said agency, an Amended U.S. Individual Income Tax Return, Form 1040X for the year 2010 which requested a refund to which the defendant knew he was not entitled.

In violation of Title 18, United States Code, Section 287.

COUNT 5

The Grand Jury further charges:

30. The allegations in paragraph 2 of the General Allegations are re-alleged and incorporated by reference in this count, as though fully restated herein.

31. On or about April 3, 2011, in the Northern District of Ohio, Eastern Division, the defendant, GERARD F. SCOTT, made and presented to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$3,758,599, which the defendant then and there knew to be false, fictitious, and fraudulent. The defendant made the claim by preparing and causing to be prepared, and presenting and causing to be presented to said agency, a U.S. Income Tax Return for Estates and Trusts, Form 1041, in the name of Private Equity Investment Trust for the year 2010 which requested a refund to which the defendant knew Private Equity Investment Trust was not entitled.

In violation of Title 18, United States Code, Section 287.

A TRUE BILL

Original document – Signatures on filed with the Clerk of Courts, pursuant to the E-Government Act of 2002.